

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

JOSHUA CALHOUN, #1985495,	§	
	§	
Plaintiff,	§	
	§	
v.	§	Case No. 6:21-cv-279-JDK-KNM
	§	
LAMORRIS MARSHALL, et al.,	§	
	§	
Defendants.	§	
	§	

**ORDER ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Plaintiff Joshua Calhoun, a Texas Department of Criminal Justice inmate proceeding pro se, brings this civil rights lawsuit under 42 U.S.C. § 1983. The case was referred to United States Magistrate Judge K. Nicole Mitchell pursuant to 28 U.S.C. § 636. Plaintiff's complaint alleges violations of his constitutional rights while he was incarcerated at TDCJ's Michael Unit. On August 26, 2021, Plaintiff notified the Court that he had been transferred to TDCJ's Telford Unit. Docket No. 37.

Before the Court are two motions: (1) Plaintiff's August 19, 2021 motion for an emergency injunction, seeking transfer from the Michael Unit (Docket No. 11), and (2) Plaintiff's September 1, 2021 motion for an emergency injunction, complaining about the conditions of confinement at TDCJ's Telford Unit.

On September 27, 2020, Judge Mitchell issued a Report and Recommendation recommending that the Court deny both pending motions. Docket No. 62. A copy of this Report was sent to Plaintiff, who voluntarily moved to withdraw the first motion

in light of his transfer (Docket No. 72) and filed written objections to the recommended denial of his second motion (Docket No. 74).


Where a party timely objects to the Report and Recommendation, the Court reviews the objected-to findings and conclusions of the Magistrate Judge de novo. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass’n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).

In his objections to the recommended denial of his second motion for an emergency injunction, Plaintiff does not address or dispute the grounds for denial in the Magistrate Judge’s Report. *See* Docket No. 74. Specifically, Plaintiff fails to address the finding that his allegations about conditions at the Telford Unit are unrelated to the facts and parties involved in this case. Docket No. 62 at 3–4. As the Report explained, “a request for preliminary injunction must also be based on allegations related to the claims in the complaint.” *Bucklew v. St. Clair*, No. 3:18-CV-2117-N (BH), 2019 WL 2251109, at *2 (N.D. Tex. May 15, 2019), *report and recommendation adopted*, No. 3:18-CV-2117-N (BH), 2019 WL 2249719 (N.D. Tex. May 24, 2019). Plaintiff’s conclusory allegation that he is “retaliated on by TDCJ as a [w]hole” is not sufficient to connect his dissatisfaction with conditions at Telford to the specific claims and parties in this suit. Accordingly, the Court **OVERRULES** Plaintiff’s objections.

Plaintiff has moved to voluntarily withdraw his first motion for an emergency injunction. The Court hereby **GRANTS** that request (Docket No. 72) and **STRIKES** Plaintiff's August 19, 2021 motion for an emergency injunction (Docket No. 11).

Having conducted a de novo review of the record in this case, the Magistrate Judge's Report, and Plaintiff's objections as to the second motion for an emergency injunction (Docket No. 38), the Court has determined that the Report of the Magistrate Judge is correct, and Plaintiff's objections are without merit. Accordingly, the Court hereby **ADOPTS** the Report of the Magistrate Judge (Docket No. 62) as the opinion of the District Court. Plaintiff's September 1, 2021 motion for an emergency injunction (Docket No. 38) is **DENIED**.

So **ORDERED** and **SIGNED** this 23rd day of **October, 2021**.


JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE